IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MS JUSTICE G.ROHINI**

**WRIT PETITION NO : 8800 of 2004**

Between:

M/s. Feel Good Marketing (P) Limited, D.No. 1-40-959-960, 1st Floor, Raj Towers, Opp: Gaint Hyper Market, B;akaram, Musheeraad, Hyd, Rep. by its Direactor, P. Srinivasa Reddy.

**..... PETITIONER**

AND

1 The State of A.P., rep. by its Secretary, Depot., of Home, Secretariat, Hyd.
2 The Sub Inspector of Police, IV Town Crime P.S., Visakhapatnam.
3 The Circle Inspector of Police, IV Town Crime P.S., Visakhapatnam.

**.....RESPONDENT(S)**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of order or direction more particularly one in the nature of writ of mandamus or any appropriate to declare the action of the Respondents in harassing and trying to interfere with the business activities and harassing to windup the same and in default threatening with dire consequences without there being any complaint from any body and without there being any case registered for ;any offence in this regard, as arbitrary, illegal and violative of Articiles 14, 19 (1) (g) and 21 of the Constitution of India.

**Counsel for the Petitioner : MR.P.KESAVA RAO**

**Counsel for the Respondent No.: GP FOR HOME**

**The Court made the following :**

**THE HON'BLE MS. JUSTICE G.ROHINI**

**WRIT PETITON NO.8800 OF 2004**

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**ORAL ORDER :**

The petitioner seeks a Writ of Mandamus declaring the alleged action of the respondents in harassing and trying to interfere with the business activities of the petitioner as arbitrary, illegal and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India.

In the affidavit filed in support of the writ petition, it is stated that the petitioner Company is a Private Limited Company registered and incorporated under the Companies Act, 1956 having its registered office at Dr.No.1-4-959-960, 1st Floor, Raj Towers, Opp: Gaint Hyper Market, Bakaram, Musheerabad, Hyderabad. The main objects of the petitioner Company are to buy, sell, assemble, barter, exchange

or otherwise deal as wholesaler and retailer or either as principal or agent for all kinds of goods merchandise, products and articles in India or elsewhere to carry on the business of agency, manufacturers, representatives, market surveys and to act as consultants, advisors for making products in India or elsewhere, to carry on the direct network, indirect network, multilevel marketing in connection with the business of Co. and to enlist for display the products of manufacture and the sale promotion thereof apart from the other ancillary objects to the attainment of the main objects. The authorized share capital of the petitioner Company is Rs.1,00,000/- divided into 10,000/- equity shares of Rs.10/- each. It is further stated that as per the business plan of the petitioner Company any person who is above the age of 18 years can become a member by purchasing the listed product packages which are mentioned in the company product packages list and on the purchase of the referred package the member can also avail repurchasing discount facility.

It is alleged that on 30-04-2004 the Sub-Inspector of Police and Circle Inspector of Police of IV Town Crime Police Station, Visakhapatnam along with two constables came to the branch/regional office of the petitioner company and asked the Chief Executive of the Petitioner Company by name Mr.G.Srinivas Patnaik to vacate and close the business forthwith failing which dire consequences would follow such as that they will be arrested and put behind the bars. When the Chief Executive of the petitioner enquired about the alleged offence committed by the petitioner Company, he was informed that the petitioner company was trying to cheat public and doing business contrary to the provisions of the Prize, Chits and Money Circulation (Banning) Act, 1978. They have also asked the Chief Executive to meet the Assistant Commissioner of Police, Crime, Visakhapatnam on the same day. Accordingly, he met the Assistant Commissioner of Police whereupon he was informed that unless he vacates and closes the business, serious action will be taken against him.

Similar other allegations have been made on the basis of which the petitioner contends that the police cannot interfere with the business activity of the petitioner Company as well as life and liberty of any person attached to the business. Hence, this writ petition seeking the above relief.

The learned Counsel for the petitioner, while reiterating the averments in the writ petition, contended that without there being any complaint from anybody and without there being any crime registered for any offence, the respondents are not entitled to interfere with the business activities of the petitioner and therefore the entire high-handed action of the respondents is liable to be declared as arbitrary and illegal.

It is relevant to note that in the counter-affidavit filed on behalf of the respondents 2 and 3, the Sub-Inspector of Police, IV Town Crime Police Station, Visakhapatnam city explained that on receipt of a telephone call in the Police Control Room, Visakhapatnam city that a bogus business has been established at Eshwar Palace, Dwarakaanagar, Visakhapatnam city to cheat the innocent public, the same was informed by the Police Control Room to the Assistant Commissioner of Police, (Crimes), Visakhapatnam city and he, in turn, directed the 3rd respondent on 30-04-2004 to make an enquiry in the matter by visiting the said place. Accordingly, the 3rd respondent along with the Sub-Inspector of Police and two constables visited the premises of Eshwar Palace, Dwarakanagar 1st lane, Visakhapatnam city and found one Sri G.Srinivas Patnaik, present at Shop No.4 of the said premises, who informed them that he is the representative of the petitioner's company branch office at Visakhapatnam and they are proposing to start the business at the said shop and the proposed business is lawful and nothing to do with cheating etc., and that some of their business rivals might have misinformed about their proposed business to the police. Thereafter, the said Sri Patnaik met the Assistant Commissioner of Police, (Crimes), Visakhapatnam city on the same day i.e., 30-04-2004 and explained his stand.

All the allegations made by the petitioner as to the harassment and interference with the business of the petitioner Company have been specifically denied and it is stated that it is absolutely false to allege that the Assistant Commissioner of Police, Visakhapatnam city asked Sri G.Srinivas Patnaik to vacate and close the business forthwith. It is also stated that the Police has nothing to do with the demand for vacating the premises by the petitioner Company and that the apprehension of the petitioner that the same is at the behest of the police is unfounded. It is further stated that the petitioner Company has not started yet its business at Visakhapatnam

Branch, therefore the question of police harassing and pressuring the petitioner to close the business does not arise. No interference has been caused to the life and liberty of any person attached to the business of the petitioner company.

Thus, the allegations of the petitioner have been denied in toto. It is to be noted that the petitioner did not choose to file any reply affidavit contradicting the stand taken by the respondents in their counter-affidavit.

In the light of the averments in the counter-affidavit filed by the respondents which stood unrebutted, I do not find any substance in the allegations made by the petitioner. However, the learned Counsel for the petitioner while placing reliance upon a decision of this Court in *P.SAMBAIAH v. GOVERNMENT OF A.P.* contended that having regard to the facts and circumstances of the case, it is necessary to declare that the respondents can only take action according to law if it is found that the petitioner is indulging in commission of any offence.

In the case on hand, since the allegation of the petitioner as to the harassment and interference by the respondents has been totally denied by the respondents, I do not see any reason to grant such a declaration. Accordingly, the Writ Petition is closed recording the statement of the respondents 2 and 3 in their counter-affidavit that they are not interfering with the business of the petitioner in any way. It is made clear that it is always open to the petitioner to institute appropriate proceedings afresh in case necessity thereof arises.

The Writ Petition is accordingly closed. No costs.

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19th July, 2004.

Gbs

To

1 The Secretary, Department of Home, Govt. of A.P., Secretariat, Hyd.
2 The Sub Inspector of Police, IV Town Crime P.S., Visakhapatnam.
3 The Circle Inspector of Police, IV Town Crime P.S., Visakhapatnam.

4..2CCs to G.P. for Home, High Court Bldgs, Hyderabad.(OUT)

5. 2 CD copies.